

REMARKS

Favorable consideration and allowance are requested for claims 1-20 in view of the following remarks.

Status of the Application

Claims 1-20 are pending in this application. Claim 13 was objected to. Claims 1-20 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2004/0032565 to Yamakaji *et al.* (the “Yamakaji publication”). Claim 13 has been amended.

Objection to Claim 13

Claim 13 was objected to due to an informality. In response, claim 13 has been amended solely for the purpose of correcting the informality.

Rejections under 35 U.S.C. § 102(b)

According to the outstanding Office Action, the subject matter of claims 1-20 is anticipated by the Yamakaji publication. In particular, and with respect to independent claim 1, the Office Action refers to paragraphs 138 to 140 and Figures 7-9, 12, and 18 of the Yamakaji publication for the proposition that the reference discloses “the calculation value having a negative desired refraction deviation between 0.03 dpt and 0.2 dpt with respect to the ordering value in the far reference point . . . wherein the desired refraction deviation is represented by the power error, which is used to optimize the lens as required for the user.” Office Action of November 30, 2009 at 3. And with respect to independent claim 9, the Office Action states that, “the calculation value with respect to a

predefined ordering value of the average use value in the far reference point having a negative desired refraction deviation of between 0.03 dpt and 0.2 dpt . . . wherein the desired refraction deviation is represented by the power error.” *Id.* at 4.

In response, Applicants respectfully submit that the Yamakaji publication discloses only optical errors of the finished lens if the finished lens is worn in a use position that deviates from the use position for which the lens has been produced. Therefore, the errors (*i.e.*, power errors and astigmatic errors) illustrated in Figs. 7 to 18 are not to be equated with the intentional refraction deviation of the calculation value in the far reference point from the respective ordering value, which is introduced during the optimization of the progressive spectacle lens.

In addition, Applicants submit that paragraphs 138 to 140 of the Yamakaji publication refer to an optimization method carried out so as to diminish the deviation between an estimated astigmatism AO, average power distribution BO, and distortion CO, on the one hand, and astigmatism A1, average power distribution A1, average power distribution D1, and distortion C1 determined by ray tracing during the process of the optimization of the lens, on the other. Thus, it appears that this portion of the Yamakaji publication teaches away from the introduction of a desired negative refractive deviation as defined in the independent claims of the present invention during the optimization process.

Further, Applicants submit that paragraphs 138 to 140 of the Yamakaji publication do not contain any teaching or suggestion that there is a deviation in the claimed range of the average power error in use position in the far reference point. The Office Action refers to the examples and the figures as disclosing the claimed negative desired refractive deviation in the far reference point, without giving any specific basis for this finding. In response, Applicants note that in Figures 5 to 14 of the Yamakaji publication, the power error (which has been referred to in the Office Action as corresponding to the intentionally introduced negative refractive deviation of the present invention) is zero (0) at the optical center. However, as can be seen from Figure 25 of the Yamakaji publication, which illustrates a progressive lens, the optical center corresponds to the far distance point of the present invention. In other words, even if the unwanted/undesired power error (due to the asphericity of the progressive surface) is to be equated to the desired, intentionally introduced negative refractive deviation according to the present invention, the Yamakaji publication still does not disclose that the power error is in the range specified in the independent claims of the present invention. On the contrary, in the far reference point of the progressive lens of the Yamakaji publication, there is no power error and respectively no negative refraction deviation between 0.03 dpt and 0.2 dpt with respect to an ordering value as defined in the independent claims.

For at least the reasons stated above, Applicants respectfully submit that independent claims 1 and 9 are patentable over the Yamakaji publication. And, therefore, each of claims 2-8, 10-12, and 14-20, which has one of claims 1 and 9 as its base claim, is also patentable.

With respect to independent claim 13, Applicants respectfully submit that the Yamakaji publication also fails to disclose a “progressive lens [that] is optimized such that, in the case of a superimposition with a refraction error of +0.2 dpt, the far range is reduced by not more than 5%.” Specifically, the Office Action points to no teaching or suggestion in the Yamakaji publication in Figures 7-9, 12, and 18 or in paragraphs 138-140 with respect to the claimed subject matter. Therefore, this claim is also patentable over the cited reference.

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If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 100341.56445US).

Respectfully submitted,

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